

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of Alexi Stavropoulos

Appeal No. 18588

DISTRICT OF COLUMBIA’S PRE-HEARING STATEMENT

The Appellee, the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”), by and through undersigned counsel, respectfully submits its Pre-Hearing Statement in opposition to the appeal filed by Alexi Stavropoulos (“Appellant”) on April 23, 2013.

On February 19, 2013, Appellant submitted a building permit application to DCRA to add an addition to an existing garage at 3215 45th St., NW (the “Property”). *See* BZA exhibit no. 4. DCRA assigned the application no. G1300022. *Id.* The permit application identifies Arthur Harding as the property owner, Alexi Stavropoulos as the contractor and agent for the owner, and George Stavropoulos as the architect. *Id.*

The permit application proposes to add a 10 foot long addition at the same height of the existing garage, which is 16.5 feet. Ade Shittu, a plan reviewer in the Office of the Zoning Administrator, determined that application no. G1300022 did not comply with the Zoning Regulations. Mr. Shittu explained his rationale as to why he did not approve the application and stated what changes must be made by the Appellant prior to approval in a Plan Correction List dated March 5, 2013. *See* BZA exhibit no. 3. Specifically, the Plan Correction List contains three points: 1) that the lot must be converted from a tax lot to a record lot, 2) that two side dimensions

of the existing garage are not accurate, and 3) that relief is required from the Board to construct an addition to the garage that is 16.5 feet in height. *Id.* This appeal followed.¹

The Board must deny this appeal as Mr. Shittu was correct that the height limitation for a one story garage is 15 feet and that an addition to the existing garage at a height of 16.5 feet cannot be approved without relief from the Board.²

DISCUSSION

The Property is located in a WH/R-1-B zone and is improved with a detached single family dwelling and a private garage. One story private garages are limited to a maximum height of 15 feet. *See* 11 DCMR §2500.4. The height of the existing garage is 16.5 feet. According to the documents filed with this appeal, the existing garage was built before the 15 foot limitation was enacted. *See* BZA exhibit no. 2. This means the existing garage is a nonconforming structure. *See* 11 DCMR §199.1 (definition of “nonconforming structure”).

Appellant seeks to construct a 10 foot long addition to the garage, which would continue the garage’s nonconforming height of 16.5 feet. This is not allowed. Enlargements or additions to nonconforming structures may only be made if the addition itself conforms to Zoning Regulations and does not extend any nonconformity. *See* 11 DCMR §2001.3. Thus, any addition to the garage must comply with the 15 foot height limitation.

In the appeal, Appellant does not rebut Mr. Shittu’s interpretation of the regulations. Instead, Appellant states that he wants to build the addition at a height of 16.5 feet in order to “maintain a consistent look to the garage” and states that “it would be a shame if we have to remove an existing structure.” *See* BZA exhibit no. 2. Appellant misses the mark on both points.

¹ The appeal only references the height issue, therefore the other two determinations by Mr. Shittu are not a part of this appeal. *See* BZA exhibit no. 2.

² Appellant has also been advised by undersigned counsel that an application for a variance may be required. *See* Exhibit A attached hereto.

Appellant's desire to keep a consistent look for the garage is not a basis for the Board to find error in DCRA's application of §2500.4. Second, the Zoning Regulations do not require Appellant to remove the existing garage. The regulations prohibit the expansion of nonconformities, but they do not require nonconforming structures be demolished.

Accordingly, the Office of the Zoning Administrator's review of permit application no. G1300022 was not in error and the Board must deny this appeal.

Respectfully Submitted,

IRVIN B. NATHAN
Attorney General for the District of Columbia

MELINDA M. BOLLING
General Counsel for the Department of Consumer
and Regulatory Affairs

July 8, 2013



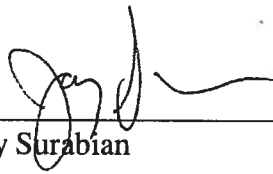
JAY A. SURABIAN (DC Bar # 977657)
Assistant Attorney General
Department of Consumer and Regulatory Affairs
Office of the General Counsel
1100 4th Street, SW, 5th Floor
Washington, DC 20024
(202) 442-8403 (office)
(202) 442-9447 (fax)
jay.surabian@dc.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served by first class mail, this 8th day of July 2013, to the following:

Alexi Stavropoulos
3124 38th St., NW
Washington, DC 20016

ANC 3D
P.O. Box 40846 Palisades Station
Washington, DC 20016



Jay Surabian

Exhibit A

Surabian, Jay (DCRA)

From: Surabian, Jay (DCRA)
Sent: Thursday, May 16, 2013 4:35 PM
To: 'alexi@canalgroubuilders.com'
Subject: 3215 45th St, NW

Mr. Stavropoulos-

I am the attorney who is going to be representing DCRA in the Board of Zoning Adjustment appeal you filed recently concerning the garage at 3215 45th St. I have briefly looked at the documents you filed and I believe that you may have intended to ask the BZA for a variance rather than an appeal. Appeals are for instances where you believe DCRA has made an error in applying the regulations. Here, you seem to agree that the garage cannot be built to that height as a matter-of-right, but you want the BZA to make an exception for you. That request seems like it's more appropriate as an application for a variance and not as an appeal.

Feel free to call or email me regarding the appeal.

Jay A. Surabian
Assistant Attorney General
Office of the Attorney General of the District of Columbia
Office of the General Counsel for the Department of Consumer and Regulatory Affairs
1100 4th Street, SW, 5th Floor
Washington, DC 20024
(202) 442-8403 phone
(202) 442-9447 fax

Confidentiality Notice

This message is being sent by or on behalf of a lawyer. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message.